

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF FLORIDA
TALLAHASSEE DIVISION**

FLORIDA STATE CONFERENCE
OF BRANCHES AND YOUTH
UNITS OF THE NAACP, COMMON
CAUSE, and DISABILITY RIGHTS
FLORIDA, et al.,

Plaintiffs,

v.

LAUREL M. LEE,

in her official capacity as
Florida Secretary of State, et
al.,

Defendants,

REPUBLICAN NATIONAL
COMMITTEE and NATIONAL
REPUBLICAN SENATORIAL
COMMITTEE,

Intervenor-Defendants.

Case 4:21-cv-00187-MW-MAF

THIRD JOINT STATUS REPORT

This Court's Initial Scheduling Order dated June 4, 2021 (ECF No. 41) directed all parties to file regular joint status reports "stating what discovery requests each party has made and the status of the response to each requests." In accordance with that directive, Plaintiffs Florida State

Conference of Branches and Youth Units of the NAACP, Common Cause, and Disability Rights Florida; Defendants Laurel M. Lee, in her official capacity as the Florida Secretary of State (“Secretary Lee” or “the Secretary”), and the supervisors of elections of each of Florida’s 67 counties, in their official capacities (the “Supervisor Defendants”); and Defendant-Intervenors Republican National Committee and the National Republican Senatorial Committee (the “Republican Intervenors”) (hereinafter collectively referred to as the “Parties”), respectfully submit their Joint Status Report, and state:

Discovery Directed to Secretary Lee

1. Plaintiffs served their First Set of Requests for Production to Secretary Lee and First Set of Interrogatories to Secretary Lee on May 28, 2021. On July 7, 2021, Secretary Lee served responses and objections to the Plaintiffs’ First Set of Requests for Production and First Set of Interrogatories. Secretary Lee agreed with Plaintiffs to complete any “rolling” productions of documents responsive to the First Set of Requests for Production and First Set of Interrogatories by July 23, 2021.

2. Secretary Lee has made rolling productions of documents in response to Plaintiffs’ First Set of Requests for Production and First Set of Interrogatories, but Counsel for Plaintiffs have not yet received all

documents to be produced by the Secretary in response to these discovery requests.

3. Counsel for the Plaintiffs and counsel for the Secretary have met and conferred (including by teleconference on July 30, 2021), and continue to meet and confer, regarding Plaintiffs' discovery requests and the sufficiency or insufficiency of the Secretary's Responses. The Secretary has responded to certain follow-up items and has produced certain additional documents requested by Plaintiffs. The Secretary has agreed to consider producing certain additional documents requested by Plaintiffs. In an August 18, 2021 letter, Secretary Lee's counsel wrote that the Secretary was confirming "whether there are any additional responsive materials," and that the Secretary "will provide any that" her office discovers.

4. Plaintiffs served their Second Set of Requests for Production to Secretary Lee on July 23, 2021. Secretary Lee served responses and objections to the Second Set of Requests for Production on August 23, 2021 and has agreed to produce certain documents responsive to these requests.

Discovery Directed to the Republican Intervenors

5. Plaintiffs served their First Set of Requests for Production to the Republican Intervenors on July 22, 2021. Republican Intervenors have

agreed to respond to Plaintiffs' First Set of Requests for Production by September 10, 2021.

Third-Party Subpoenas

6. On July 28, 2021, Plaintiffs served a third-party subpoena to Florida Supervisors of Elections, Inc. ("FSE"), whose registered agent is Ronald A. Labasky.

7. FSE completed its document productions in response to this Third-Party Subpoena on September 7, 2021. Plaintiffs are reviewing the materials provided.

8. On August 6, 2021, Plaintiffs served third-party subpoenas to The Heritage Foundation and Heritage Action for America (together, "Heritage"), whose registered agent is CT Corporation System.

9. Heritage served responses and objections to Plaintiffs' third-party subpoenas on September 7, 2021.

10. Plaintiffs continue to meet and confer with the third-party subpoena recipients regarding Plaintiffs' subpoenas.

Discovery Directed to the Supervisor Defendants

11. Plaintiffs served their First Set of Requests for Production and First Set of Interrogatories on the Supervisor Defendants on June 16, 17, 23, 24, and 29, 2021.¹

12. Each Supervisor Defendant has, at a minimum, served initial responses and objections to Plaintiffs' First Set of Requests for Production. Plaintiffs are reviewing the materials provided and have met and conferred with certain Supervisor Defendants who have indicated they have not completed their production and intend to provide a supplemental response. The Supervisor Defendants have made document productions to the *NAACP* Plaintiffs and concurrently to the Plaintiffs in the other cases consolidated, for discovery purposes only, with this action.

13. *NAACP* Plaintiffs are reviewing the materials provided and have met and conferred with certain Supervisor Defendants. In an August 25, 2021 letter to Supervisor Defendants' counsel, Plaintiffs identified specific possible gaps in Supervisor Defendants' productions of documents responsive to Plaintiffs' First Set of Requests for Production of Documents. Plaintiffs asked the Supervisor Defendants to either supplement their

¹ However, the Supervisors of Elections for Brevard, DeSoto, Flagler, Gilchrist, Gulf, Highlands, Jefferson, and Madison Counties maintain as stated in their Notice Regarding July 6, 2021 Joint Status Report (Doc. 143) filed with the Court on July 9, 2021.

productions by producing the categories of documents identified (to the extent that they have not already been produced) or to confirm that no such documents exist. Some Supervisor Defendants have responded to Plaintiffs' letter and either provided additional information or confirmed that they have no additional responsive documents.

14. Each Supervisor Defendant has served responses and objections to Plaintiffs' First Set of Interrogatories.

15. Plaintiffs served their Second Set of Requests for Production on the Supervisor Defendants on July 22, 2021. The Supervisor Defendants' responses to Plaintiffs' Second Set of Requests for Production were due on August 23, 2021. Most Supervisors Defendants have served responses and objections to Plaintiffs' Second Set of Requests for Production. However, Supervisors Kim Barton (Alachua County), Maureen Baird (Citrus County), Christina White (Miami-Dade County), and Wendy Link (Palm Beach County) have not yet served responses and objections to Plaintiffs' Second Set of Requests for Production. Plaintiffs have reached out to counsel for those Supervisor Defendants to ask them to provide responses to Plaintiffs' Second Set of Requests for Production, along with responsive documents, as soon as possible.

16. Certain Supervisor Defendants have made document productions in response to Plaintiffs' Second Set of Requests for Production. Plaintiffs are reviewing the materials provided and have met and conferred with certain Supervisor Defendants.

Discovery Directed to the Plaintiffs

17. Secretary Lee served her First Set of Requests for Production and First Set of Interrogatories to the Plaintiffs on July 2, 2021. Plaintiffs served responses and objections on August 9, 2021. Plaintiffs are preparing documents for rolling productions.

18. The Republican Intervenors served their First Set of Requests for Production and First Set of Interrogatories to Plaintiffs on July 21, 2021. Plaintiffs served responses and objections on September 3, 2021. Plaintiffs are preparing documents for rolling productions.

Expert Disclosures

19. In accordance with this Court's scheduling order of July 23, 2021 (ECF No. 165), Plaintiffs served their expert disclosures on counsel of record for the Supervisor Defendants on September 1, 2021. Due to a clerical error, counsel of record for Secretary Lee and the Republican Intervenors were not included on the initial service email, so Plaintiffs' expert disclosures were served on Secretary Lee and the Republican Intervenors on September 2,

2021. Plaintiffs' expert disclosures consisted of the reports and exhibits of Professor Daniel A. Smith, Professor Traci Burch, and Mr. William S. Cooper.

Dated: September 7, 2021

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing was served to all counsel of record through the Court's CM/ECF system on September 7, 2021.

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